



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Adam J. Katz et al.
Serial No.: 09/936,665
Filed: September 10, 2001
U.S. Patent: 6,777,231
Issued: August 17, 2004
Docket: 30448.77USW1
Title: ADIPOSE-DERIVED STEM CELLS AND LATTICES

CERTIFICATE UNDER 37 CFR §1.8

I hereby certify that this paper or fee is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on February 9, 2005.

By: *Renato Marco P. Domingo*
Name: Renato Marco P. Domingo

55 S. Lake Avenue, Suite 710
Pasadena, California 91101
February 9, 2005

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

We are transmitting herewith the attached:

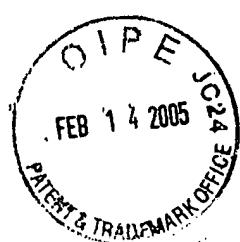
- Transmittal sheet, in duplicate, containing Certificate under 37 CFR §1.8
- Communication
- Exhibit 1 – Copy of Complaint for Correction of Inventorship under 35 U.S.C. §256 filed with the District Court for the Central District of California
- Exhibit 2 – Copy of Answer to Complaint for Correction of Inventorship under 35 U.S.C. §256
- Return postcard

Please charge any fees or credit overpayment to Deposit Account No. 50-0306. A duplicate of this sheet is enclosed.

MANDEL & ADRIANO
55 S. Lake Avenue, Suite 710
Pasadena, California 91101
(626) 395-7801

By: *Sarah B. Adriano*
Name: Sarah B. Adriano
Reg. No.: 34,470
Customer No. 26941

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30448.77USW1/SBA/RDG

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Adam J. Katz, Ramon Llull, William J. Futrell, Marc H. Hedrick, Prosper Benhaim, Hermann Peter Lorenz and Min Zhu

U.S. Serial No.: 09/936,665 **Examiner:** James Ketter, Ph.D.

Filed: September 10, 2001 **Group Art Unit:** 1636

U.S. Patent No.: 6,777,231

Issue Date: August 17, 2004

Title: ADIPOSE-DERIVED STEM CELLS AND LATTICES

55 So. Lake Avenue, Suite 710
Pasadena, California 91101
February 9, 2005

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir/Madam:

COMMUNICATION

Attorneys for Applicants bring to the Office's attention that on October 29, 2004, The University of Pittsburgh filed a Complaint for Correction of Inventorship under 35 U.S.C. § 256 of the above-identified patent, against co-inventors Hedrick, Benhaim, Lorenz and Zhu, in the District Court for the Central District of California, Case No. CV-04-9014 CBM (AJWx) ("Complaint"). A copy of the Complaint is attached hereto as Exhibit 1. An Answer was filed on behalf of all four defendants on January 5, 2005, a copy of which is attached hereto as Exhibit 2.

Applicants: Adam J. Katz, et al.
U.S. Serial No: 09/936,665
Filed: September 10, 2001
Page: 2

Additionally, both the subject application, now patent, and co-pending application, U.S. Serial No. 09/947,985 were being examined by Examiner Sandals, who was the Examiner of record on both applications before his departure from the Patent Office. However, since Examiner Sandals is no longer with the Patent Office, please note that U.S. Serial No. 09/947,985 remains pending and is being prosecuted by Counsel of The University of Pittsburgh.

No fee is deemed necessary in connection with the filing of this Communication. However, if any fee is necessary, the Patent Office is authorized to charge any additional fee to Deposit Account No. 50-0306.

Respectfully submitted,

Sarah B. Adriano

Sarah B. Adriano
Registration No. 34,470
SaraLynn Mandel
Registration No. 31,853
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11/29/24 12:25 UC GENERAL COUNSEL REC. 31152935286

FAX REC'D. 12:25 PM

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 28 Attorneys for Plaintiff
 29 University of Pittsburgh of the
 30 Commonwealth System of Higher Education

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FILED

CJM
 (AJW)UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

Case No.

CV 04-9014
 COMPLAINT FOR CORRECTION
 OF INVENTORSHIP UNDER 35

20 UNIVERSITY OF PITTSBURGH
 21 OF THE COMMONWEALTH
 22 SYSTEM OF HIGHER
 23 EDUCATION.

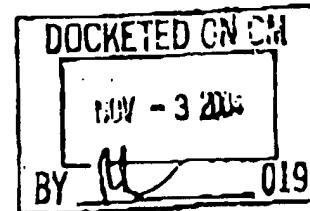
Plaintiff,

vs.

24 MARC H. HEDRICK, PROSPER
 25 BENHAIM, HERMANN PETER
 26 LORENZ, and MIN ZHU,

Defendants.

1-PA/2004-1736.2



11/05/24 10:23 UC GENERAL COUNSEL (2) → 314-333-2233

ת. 925 פ. 903/925

1 Plaintiff University of Pittsburgh of the Commonwealth System of Higher
2 Education ("Plaintiff"), by and through its undersigned counsel, brings this
3 Complaint against Defendants Marc H. Hedrick, Prosper Benheim, Hermann Peter
4 Lorenz, and Min Zhu (collectively "Defendants") and in support thereof, avers as
5 follows:

Jurisdiction and Venue

- 7 1. Plaintiff brings this action pursuant to the Patent Laws of the United
8 States, 35 U.S.C. §§ 1 and 256.

9 2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331
10 (federal question jurisdiction) and § 1338(a) (original jurisdiction under patent
11 laws).

12 3. Venue is proper in this judicial district under 28 U.S.C. § 1331(b) (general
13 venue statute).

The Parties

- 15 4. Plaintiff is an assignee of U.S. Patent No. 6,777,231 ("the '231 patent"),
16 and has its principal place in Pittsburgh, Pennsylvania.

17 5. Defendant Marc H. Hedrick is identified on the '231 patent as one of
18 seven named inventors. Upon information and belief, Hedrick resides at 2345
19 Jennifer Lane in Encinitas, California.

20 6. Defendant Prosper Benhaim is identified on the '231 patent as one of
21 seven named inventors. Upon information and belief, Benhaim resides at 17018
22 Hartsook Street in Encino, California.

23 7. Defendant Hermann Peter Lorenz is identified on the '231 patent as one
24 of seven named inventors. Upon information and belief, Lorenz resides at 2634
25 Belmont Canyon Road in Belmont, California.

26 8. Defendant Min Zhu is identified on the '231 patent as one of seven named
27 inventors. Upon information and belief, Zhu resides in San Diego, California.

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Factual Background

2 9. On or about August 17, 2004, the U.S. Patent and Trademark Office
3 issued the '231 patent, which is entitled "Adipose-Derived Stem Cells and
4 Lattices." A true and correct copy of the '231 patent is attached hereto as Exhibit
5 "A."

6 10. The '231 patent lists Adam J. Katz, Ramon Llull, William J. Futrell,
7 Marc H. Hedrick, Prosper Benhaim, Hermann Peter Lorenz and Min Zhu as named
8 inventors.

9 11. Inventors Katz, Llull, and Futrell assigned to Plaintiff their rights in the
10 application, which issued as the '231 patent. The assignment is recorded in the
11 U.S. Patent and Trademark Office records as Reel 010998 Frame 0570. A true and
12 correct copy of the assignment is attached hereto as Exhibit "B."

13 12. Although the Plaintiff's name does not appear on the face of the '231
14 patent due to a clerical error, Plaintiff is a true and current assignee by assignment
15 from Katz, Llull, and Futrell.

16

COUNT I

17

(Correction of Inventorship under 35 U.S.C. § 256)

18 13. Plaintiff incorporates by reference paragraphs 1 through 12 as though
19 fully set forth herein.

20 14. The '231 patent names Adam J. Katz, Ramon Llull, William J. Futrell,
21 Marc H. Hedrick, Prosper Benhaim, Hermann Peter Lorenz and Min Zhu as
22 inventors.

23 15. Katz, Llull, and Futrell are the true and correct inventors of the claims of
24 the '231 patent.

25 16. Upon information and belief, Hedrick, Benhaim, Lorenz, and Zhu are
26 not inventors of the claimed subject matter of the '231 patent and are thus,
27 incorrectly named as inventors.

28

1-24/2006756.2

3

11/09/04 10:26 UC GENERAL COUNSEL (2) + 914153932286

NO. 026 P005/025

1 WHEREFORE, Plaintiff prays for a judgment from the Court against
2 Defendants as follows:

3 (a) a determination of the true and correct inventorship of the '231 patent;
4 (b) a determination that Hedrick, Benhaim, Lorenz, and Zhu are not
5 inventors of the '231 patent; and
6 (c) such other further relief as this Court may deem just and proper.

7
8 Dated: October 29, 2004.

MORGAN, LEWIS & BOKIUS LLP

9
10 By 
11 Jessica A. MacDonald
12 Ann A. Byun
13 David W. Mervin Jr.

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UNIVERSITY OF PITTSBURGH
Alan A. Garfinkel

Attorneys for Plaintiff
University of Pittsburgh of the
Commonwealth System of Higher
Education

1-005/1006796.2

11/09/04 10:26 UC GENERAL COUNSEL (2) 34-2008-001

ר १८६ P १८६/१८५

Jury Trial Demanded

Plaintiff University of Pittsburgh of the Commonwealth System of Higher Education hereby demands a trial by jury on all issues properly triable by jury.

6 | Dated: October 29, 2004

MORGAN, LEWIS & BOCKIUS LLP

By Teresa A. MacDonald
Alma A. Bryan
David W. Marston Jr.

TET 58 A. Mac Donald

Ann A. Bryn

David W. Marston Jr.

UNIVERSITY OF PITTSBURGH
Alan A. Garfinkel

Attorneys for Plaintiff
University of Pittsburgh of the
Commonwealth System of Higher
Education

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BINGHAM McCUTCHEN LLP

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11/09/04 10:26 UC GENERAL COUNSEL (2) → 914153932286

NO.026 P007/025

EXHIBIT A

11/29/04 10:31 UC GENERAL COUNSEL (2) → 914153932286

NO. 026 P021/025

PATENT
REEL: 010900 FRAME: 0570

EXHIBIT B
PAGE 18

11/09/04 10:31 UC GENERAL COUNSEL (2) + 914153932286

NO.026 PG22/025

Loyola Volpe & Macch, Ltd.
Attorneys at Law
Two Professional Place
Suite 4000
120 North State
Chicago, Illinois 60601-6780
Attorney Docket No. 11-261

ASSIGNMENT

WHEREAS, W.E., Adam J. Katz, Ramon Lull, and J. William Purcell, of 1207 Lawrence Street, Pittsburgh, Pennsylvania 15218, Eric Glazner, 1544-2, Boremane B-61004, Syntex, and 1 Sweetwater Lane, Pittsburgh, Pennsylvania 15238, respectively, have invented and own a certain invention entitled:

ADIPONE-DERIVED STEM CELLS AND LATTICES

for which invention we have converted a PCT patent application designating the United States and other countries worldwide, which was filed on March 10, 2000, and accorded PCT Application No. PCT/US00/02332, and

WHEREAS, University of Pittsburgh of the Commonwealth System of Higher Education, of 200 Gardner Steel Conference Center, Pittsburgh, Pennsylvania 15260 (hereinafter referred to as Assignee), is desirous of acquiring the entire domestic and foreign right, title, and interest in and under the invention described in the patent application.

Now, THEREFORE, for good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, we assign and transfer to the Assignee and the Assignee's legal representatives, successors and assigns the full and exclusive rights in and to the invention in the United States and every foreign country and the entire right, title, and interest in and to the patent application and other such applications (e.g., provisional applications, non-provisional applications, continuations, continuations-in-part, divisionals, reissues, reexams, and variations) that may be filed in the United States and every foreign country on the invention, and the practice by assignees thereof, both foreign and domestic, that may issue thereon and we do hereby authorize and request the Commissioner of Patents and Trademarks to issue United States patents to the above-named Assignee agreeably with the terms of this assignment document.

We HEREBY AUTHORIZE the Assignee to insert in this assignment document the filing date and serial number of the application if the date and number are unavailable at the time this document is executed.

UPON SAID CONSIDERATION, we convey to the Assignee the right to make applications in its own behalf for protection of the invention in the United States and countries foreign to the United States and to claim under the International Convention and/or other international arrangement for any such application the date of the PCT application and any priority claimed therein (or any other application on the invention) to gain priority with respect to other applications.

We DO HEREBY COVENANT and agree with the Assignee that we will not make any writing or do any act whatever conflicting with the terms of this assignment document and forth herein, and that we will at any time upon request, without further or additional consideration, but at the expense of the Assignee, execute such additional assignments and other

PATENT
REEL: 010863 FRAME: 0871

EXHIBIT B
PAGE 19

11/09/04 10:32 UC GENERAL COUNSEL (2) → 914153932286

NO. 026 P023/025

In re Apple. et al.,
Attorney Docket No. 204267

writings and do such additional acts as the Assignee may deem necessary or desirable to perfect the Assignee's assignment of this assignment, and render all necessary assistance in making application for and obtaining original, continuation, continuation-in-part, divisional, reduced, renewal, or extended patents of the United States or of any and all foreign countries on the invention, and in enforcing any rights or claims in action accruing as a result of such applications or patents, and by executing statements and other affidavits, it being understood that the foregoing covenant and agreement shall bind, and be to the benefit of, the Assignee and legal representatives of all parties hereto.

IN WITNESS WHEREOF, we have hereunder set our hands on the dates shown below:

Date 4/20/14 4/20/14

STATE OF Liberia)

COUNTY OF Dakota).

◎ 俗文化研究

On this 1st day of July, 2010, before me, a Notary Public in and for said County, appeared Adair J. Katz, who is personally known to me to be the same person whose name is subscribed to the foregoing judgment document, and acknowledged that he/she signed and delivered the document as his/her true and voluntary act for the uses and purposes therein set forth.

158A11

Notary Public

My Consumption Expires: C.I.15. C.3



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PATENT
REEL-010008 FRAME: 0572

EXHIBIT B
PAGE 20

11/09/04 10:32 UC GENERAL COUNSEL (2) → 914153932286

NO. 026 P024/025

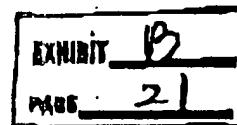
In re Appl. of Xcel et al.
Attorney Docket No. 206267

Date April 19, 2000Ronald J. Lewis

Bingham LLP

Date APRIL 19, 2000Witness J. PrentissDate 8/10/2000Witness Chunganta Chakraborty

3

PATENT
REEL: 010000 FRAME: 0573

11/09/04 10:32 UC GENERAL COUNSEL (2) + 914153932286

025/025

In re Apple, et al.
Attorney Docket No. 204267

Date 4/7/04 STATE OF Pennsylvania)
COUNTY OF Allegheny) SS:

J. William Farrell

On this 17th day of April, 2004 before me, a Notary Public in and for said county, appeared J. William Farrell, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, and acknowledged that he has signed and delivered the document as his/her free and voluntary act for the uses and purposes therein set forth.

Patricia M.
Notary Public

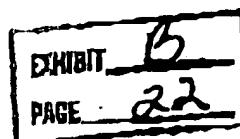
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My Commission Expires: March 31, 2006



RECORDED: 07/24/2006

PATENT
REEL: 010818 SF FILE: 0574



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12 Attorneys for Defendants
13 MARC H. HEDRICK, PROSPER BENHAIM,
14 HERMANN PETER LORENZ, and MIN ZHU

15 UNITED STATES DISTRICT COURT
16 CENTRAL DISTRICT OF CALIFORNIA

17 UNIVERSITY OF PITTSBURGH OF
18 THE COMMONWEALTH SYSTEM OF
19 HIGHER EDUCATION,

20 Plaintiff,

21 v.

22 MARC H. HEDRICK, PROSPER
23 BENHAIM, HERMANN PETER
24 LORENZ, and MIN ZHU,

25 Defendants.

26 No. CV-04-9014 CBM (AJWx)

27 ANSWER TO COMPLAINT FOR
28 CORRECTION OF
INVENTORSHIP UNDER
35 U.S.C. § 256 AND DEMAND
FOR JURY TRIAL

29 Defendants Marc H. Hedrick, Prosper Benhaim, Hermann Peter
30 Lorenz and Min Zhu (collectively, "Defendants") by and through their undersigned
31 counsel, hereby file their Answer, including Affirmative Defenses, in response to
32 the Complaint of Plaintiff University of Pittsburgh of the Commonwealth System
33 of Higher Education ("Plaintiff") in the above-captioned action in accordance with
34 the numbered paragraphs in the Complaint. Except to the extent expressly and
35 specifically admitted herein, Defendants deny each and every allegation contained
36 in the Complaint.

37 ANSWER TO COMPLAINT FOR CORRECTION OF INVENTORSHIP

I. ANSWER

Answering each of the corresponding numbered paragraphs of the Complaint, Defendants answer and respond to the allegations therein, based on each Defendant's current information and belief, as follows:

JURISDICTION AND VENUE

1. Defendants admit only that the Complaint purports to state a cause of action under the laws of the United States, Title 35, United States Code §§ 1 and 256.

2. Defendants admit that this Court has subject matter jurisdiction over this action pursuant to Title 28, United States Code §§ 1331 and 1338(a).

3. Defendants admit that venue is proper in this judicial district under 28 U.S.C. § 1391(b).

THE PARTIES

4. Defendants deny that Plaintiff is listed as the assignee of U.S. Patent No. 6,777,231 (the “231 Patent”) on the face thereof. Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 4 of the Complaint, and, on that basis, deny the allegations.

5. Defendants admit that defendant Hedrick is identified on the face of the '231 Patent as one of the seven named inventors. Defendant Hedrick admits that he resides at 2345 Jennifer Lane, Encinitas, California

6. Defendants admit that Prosper Benhaim is identified on the face of the '231 Patent as one of the seven named inventors. Defendant Benhaim admits that he resides at 17018 Hartsook Street in Encino, California.

7. Defendants admit that Hermann Peter Lorenz is identified on the face of the '231 Patent as one of the seven named inventors. Defendant Lorenz admits that he resides at 2634 Belmont Canyon Road in Belmont, California.

1 8. Defendants admit that Min Zhu is identified on the face of the
2 '231 Patent as one of the seven named inventors. Defendant Zhu admits that she
3 resides in San Diego, California.

4 **FACTUAL BACKGROUND**

5 9. Defendants admit that the face of the '231 Patent shows that it
6 was issued on August 17, 2004 and is entitled "Adipose-Derived Stem Cells and
7 Lattices." Defendants further admit that a copy of the '231 patent is attached to the
8 Complaint as Exhibit A.

9 10. Defendants admit that the face of the '231 Patent lists Adam J.
10 Katz, Ramon Llull, William J. Futrell, Marc H. Hedrick, Prosper Benhaim,
11 Hermann Peter Lorenz and Min Zhu as inventors.

12 11. Defendants admit that Exhibit B is a copy of a document that,
13 on its face, purports to assign the interests of Adam J. Katz, Ramon Llull and J.
14 William Futrell in an invention entitled "Adipose-Derived Stem Cells and
15 Lattices" to Plaintiff. Defendants lack sufficient knowledge or information to form
16 as a belief as to the truth or falsity of the remaining allegations contained in
17 paragraph 11 of the Complaint, and, on that basis, deny the allegations.

18 12. Defendants admit that Plaintiff's name does not appear on the
19 face of the '231 patent. Defendants lack sufficient knowledge or information to
20 form as a belief as to the truth or falsity of the remaining allegations contained in
21 paragraph 12 of the Complaint, and, on that basis, deny the allegations.

22 **COUNT I**

23 13. Defendants incorporate by reference and restate their responses
24 to paragraphs 1-12 as though fully set forth herein.

25 14. Defendants admit that the face of the '231 Patent lists Adam J.
26 Katz, Ramon Llull, William J. Futrell, Marc H. Hedrick, Prosper Benhaim,
27 Hermann Peter Lorenz and Min Zhu as inventors.

1 15. Defendants lack sufficient knowledge or information to form a
2 belief as to the truth or falsity of the allegations contained in paragraph 15 of the
3 Complaint, and, on that basis, deny the allegations.

4 16. Defendants deny that each defendant is not an inventor of the
5 claimed subject matter of the '231 Patent. Defendants lack sufficient knowledge or
6 information to form as a belief as to the truth or falsity of the remaining
7 allegations, if any, contained in paragraph 12 of the Complaint, and, on that basis,
8 deny the allegations.

9 **II. DEFENSES**

10 In further answering the Complaint, Defendants plead the following
11 defenses:

12 **FIRST DEFENSE (FAILURE TO STATE A CLAIM)**

13 The Complaint fails to state a claim or claims upon which relief can
14 be granted.

15 WHEREFORE, Defendants respectfully request that this Court enter a
16 judgment on the Complaint granting the relief set forth below:

- 17 a) a dismissal with prejudice of Plaintiff's Complaint as against
18 Defendants;
19 b) a denial of all relief sought by Plaintiff as against Defendants;

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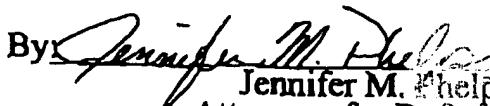
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ANSWER TO COMPLAINT FOR CORRECTION OF INVENTORSHIP

- 1 c) that this Court declare that Defendants are inventors of the '231
2 Patent;
3 d) such other relief as this Court may deem just and proper.

4 DATED: January 5, 2005

5 BINGHAM MCCUTCHEON LLP
6 JAMES B. LEWIS
7 JENNIFER M. PHELPS

8 By: 
9 Jennifer M. Phelps
10 Attorneys for Defendants
11 MARC H. HEDRICK, PROSPER
12 BENHAIM, HERMANN PETER LORENZ,
13 and MIN ZHU

14 Jeffrey M. Olson (SBN 104074)
15 SIDLEY AUSTIN BROWN & WOOD LLP
16 555 West 5th Street, 40th Floor
17 Los Angeles, CA 90013
18 Attorney for Defendant
19 MARC H. HEDRICK

20 ANSWER TO COMPLAINT FOR CORRECTION OF INVENTORSHIP

JURY DEMAND

Defendants Hedrick, Benhaim, Lorenz, and Zhu hereby demand a trial by jury on all issues on which a trial by jury may be had.

DATED: January 5, 2005

BINGHAM MCCUTCHEN LLP
JAMES B. LEWIS
JENNIFER M. PHELPS

By: Jennifer M. Phelps
Jennifer M. Phelps
Attorneys for Defendants
MARC H. HEDRICK, PROSPER
BENHAIM, HERMANN, PETER LORENZ,
and MIN ZHU

Jeffrey M. Olson (SBN 104074)
SIDLEY AUSTIN BROWN & WOOD LLP
555 West 5th Street, 40th Floor
Los Angeles, CA 90013
Attorney for Defendant
MARC H. HEDRICK

ANSWER TO COMPLAINT FOR CORRECTION OF INVENTORSHIP

PROOF OF SERVICE

I am over 18 years of age, not a party to this action and employed in the County of Los Angeles, CA at 355 South Grand Avenue, Suite 4400, Los Angeles, CA 90071-3106. I am readily familiar with the practice of this office for collection and processing of correspondence for mailing with the United States Postal Service and correspondence is deposited with the United States Postal Service that same day in the ordinary course of business.

Today I served the attached:

**ANSWER TO COMPLAINT FOR CORRECTION OF
INVENTORSHIP UNDER 35 U.S.C. § 256 AND
DEMAND FOR JURY TRIAL**

by causing a true and correct copy of the above to be placed in the United States Mail at Los Angeles, CA in sealed envelope(s) with postage prepaid, addressed as follows:

Ann A. Byun
David W. Marston, Jr.
Morgan, Lewis & Bockius LLP
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Philadelphia, PA 19103-2921
Phone: 215-963-5000
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Teresa A. MacDonald
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Jeffrey M. Olson
Sidley Austin Brown & Wood LLP
555 West 5th Street, 40th Floor
Los Angeles, CA 90013
Phone: 213-896-6041
Fax: 213-896-6600

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made and that this declaration was executed on January 5, 2005.


Nancy J. Phillips**PROOF OF SERVICE**

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